

FROM WILLKIE FARR 37 FAX DEPT
WILLKIE FARR & GALLACHER LLP

(THU) 4.14'05 17:27/ST.17:27/NO.4261737710 P 1

FAX TRANSMISSION

RECEIVED
COMMUNICATIONS SECTION

APR 14 2005

787 Seventh Avenue
New York, NY 10019-6099
(212) 728-8000

Date: April 14, 2005

Time:

Total number of pages (including this page):

Please include Client/Matter No. below

FROM: David E. Boundy

Room No.: 4578
Phone No.: (212) 728-8757
Direct FAX: (212) 728-9757

TO: Examiner Nguyen Ba, H. V. A
Art Unit 2122.
U.S. Patent and Trademark Office

Fax No.: 703 872 9306

Telephone No.: 571 272 3701

City: Alexandria

State: Virginia

CONCERNING APPLICATION:

Applicant(s): John S. Yates, Jr., et al.

Serial No.: 09/434,394

Art Unit: 2122

Filed: November 4, 1999

Examiner: Nguyen Ba, H. V. A

Title: DETECTING REORDERED SIDE EFFECTS

AFTER FINAL - EXPEDITED PROCEDURE

I hereby certify that the attached

- This FAX cover sheet
- Second Request for Reconsideration (Without Amendment)
- Request for Withdrawal of Finality of Office Action

along with any paper(s) referred to as being attached or enclosed) are being transmitted by facsimile on April 14, 2005 to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: April 14, 2005

By:

David E. Boundy

Registration No. 36,461

Confidentiality Note:

The information contained in this facsimile ("fax") transmission is sent by an attorney or his/her agent, is intended to be confidential and for the use of only the individual or entity to which it is addressed. The information may be protected by attorney/client privilege, work product immunity, or other legal rules. If the reader of this message is not the intended recipient or agent responsible for delivering it to the intended recipient, you are hereby notified that any retention, dissemination, disclosure, distribution, copying, or other use of this fax is strictly prohibited. If you have received this fax in error, please notify us immediately by telephone in order to arrange for the destruction of the fax or its return to us at our expense. THANK YOU.

Attention Recipient:

If Any Problems:

Call (212) 728-8911

Receiving Fax Number:

(212) 728-8111

Internal Use Only:

Client No.: 114596-20-4009

Matter No.:

Attorney No.: 12256

Please check here if you want faxed document returned to you instead of sent to Records Department

PATENT

ATTORNEY DOCKET NO. 114596-20-4009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 09/434,394 Confirmation No.: 3898
Applicant: John S. Yates, Jr., et al.
Title: DETECTING REORDERED SIDE EFFECTS
Filed: November 4, 1999
Art Unit: 2122
Examiner: Nguyen Ba, H. V. A

Atty. Docket: 114596-20-4009
Customer No. 38492

RECEIVED
COMMUNICATIONS
APR 14 2005

AFTER FINAL – EXPEDITED PROCEDURE**SECOND REQUEST FOR RECONSIDERATION (WITHOUT AMENDMENT)**

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant hereby responds to the Advisory Action of March 28, 2005.

CONDITIONAL PETITION FOR EXTENSION OF TIME

Applicant believes that the Advisory Action of March 28, 2005 raises a “new ground of rejection,” and thus the finality of the Office Action of December 2004 is withdrawn by operation of law. Applicant submits that the Request for Reconsideration of February 28, 2005 tolled the period for response, and that no further extension of time is necessary.

In the event that the Office disagrees, Applicant petitions for a one-month extension of time to respond to the Office Action of December 30, 2004, which extends the period for

I certify that this correspondence, along with any documents referred to therein, is being transmitted by facsimile on April 14, 2005 to Art Unit 2122 at FAX no. 703 872 9306, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



Second Request for Reconsideration (Without Amendment) 1
This paper dated April 14, 2005

114596-20-4009 S/N 09/434,394
2825318.1

PATENT

ATTORNEY DOCKET NO. 114596-20-4009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 09/434,394 Confirmation No.: 3898
Applicant: John S. Yates, Jr., et al.
Title: DETECTING REORDERED SIDE EFFECTS
Filed: November 4, 1999
Art Unit: 2122
Examiner: Nguyen Ba, H. V. A.
Atty. Docket: 114596-20-4009
Customer No. 38492

RECEIVED
CENTRAL MAIL ROOM
APR 14 2005

AFTER FINAL – EXPEDITED PROCEDURE**REQUEST FOR WITHDRAWAL OF FINALITY OF OFFICE ACTION**

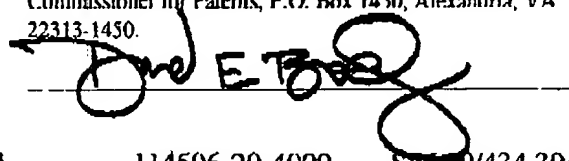
Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant observes that the Advisory Action of March 28, 2005 raises a new ground of rejection. All issues raised in the "final" Office Action of December 30, 2004 are apparently resolved. Pursuant to MPEP § 706.07(c) and (d), Applicant requests that the finality of the Action of December 30, 2004 be withdrawn, and that the Request for Reconsideration filed herewith be entered as of right.

I. The Advisory Action Introduces a New Ground of Rejection of an Unamended Claim

An Action may not be made final when it introduces a new ground of rejection, where the new ground was not necessitated by an amendment. MPEP § 706.07(a).

I certify that this correspondence, along with any documents referred to therein, is being transmitted by facsimile on April 14, 2005 to Art Unit 2122 at FAX no. 703 872 9306, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



Request for Withdrawal of Finality
This paper dated April 14, 2005

1

114596-20-4009

S/N 09/434,394
2825318.1